***THE HONOURABLE SRI .JUSTICE P.S.NARAYANA**

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+W.P.No. 12274 OF 1997

% 23-12-2004

Durgempudi Venkata Raghava …Petitioner/

Appellant

VS.

$Passport Officer, Ministry of External Affairs,

Passport Office, Hyderabad.

…Respondent/

Respondent

! COUNSEL FOR THE PETITINER : Mr. V.Narasimha Reddy,

^ COUNSEL FOR THE RESPONDENT : A.Rajasekhar Reddy, SC for CG

< Gist :

> Head Note :

? CITATIONS :

2003 (3)ALD 625

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 12274 of 1997

Between:

Durgempudi Venkata Raghava, S/o Erukala Reddy
Kothareddypalem, Chebrolu Mandal,
Guntur District

..... PETITIONER

AND

Pass Port Officer,
Ministry of External Affairs, Pass Port Office,
Hyderabad

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction, preferably one in the nature of Writ of Mandamus, directing the Respondent herein to rectify the mistake committed in mentioning the date of birth of Petitioner Viz., 10-8-1968 instead of 10-8-1969 in the Pass Port No.M.729849 dated 10-11-1992 at Hyderabad, issued by the Respondent by entering the date of birth of the petitioner as 10-8-1969 in accordance with the date of birth as entered in his SSC Certificate issued by Board of Secondary Education, A.P.,Hyderabad,

Counsel for the Petitioner:MR.V.NARASIMHA REDDY

Counsel for the Respondent : MR.ARAJASHEKAR REDDY

(SC FOR CG)

The Court made the following :

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ORDER:

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1. Heard Sri V.Narasimha Reddy, learned counsel representing the Writ Petitioner and Mr.A.Raja Sekhar Reddy, Standing Counsel for Central Government-respondent.

2. This Writ Petition is filed for a writ, Order or direction, preferably one in the nature of Writ of Mandamus, directing the Respondent herein to rectify the mistake committed in mentioning the date of birth of petitioner as 10-8-1968 instead of 10-8-1969 in the Passport No. M. 729849, dated 10-11-1992 at Hyderabad, and direct the respondent to enter the date of birth of the petitioner as 10-8-1969 in accordance with the date of birth as entered in his S.S.C. certificate issued by Board of

Secondary Education, A.P. Hyderabad and to pass suitable orders.

3. It is averred in the affidavit filed in support of the Writ Petition that the petitioner passed the Computer Science Engineering in the month of November, 1991. In view of the fact that the petitioner being unemployed and on the advise of his parents to go abroad either for employment or for further studies, petitioner approached the travel agent by name Kesineni Travels, Vijayawada in order to obtain Passport. It is further averred that after taking the particulars of the petitioner together with relevant documents of S.C.C. certificate issued by the Board of Secondary Education, A.P. Hyderabad, Intermediate Certificate issued by Board of Intermediate Education, A.P. as well as Degree Certificate in Computer Science Engineering issued by University of Madras dated 16-4-1992, the Travel Agent gave him a pro-forma application form for passport and obtained his signatures on blank application form, as the said travel agent was busy on that date and as the petitioner was also anxious to reach his native place immediately from Vijayawada. It is further stated that while filling up the application form in his absence, the Travel Agent committed a mistake in mentioning his date of birth and wrongly mentioned as 10-8-1968 instead of actual date of birth 10-8-1969. However, along with the said application form for passport, the Travel Agent enclosed copies of S.S.C., intermediate and degree certificates and forwarded the same to the concerned passport office for issuance of the passport to the Writ Petitioner. It is stated that the passport was issued without verifying the date of birth of the petitioner. The petitioner did not notice the contents of the passports immediately. But, however, while making application for further studies abroad, the petitioner could notice the mistake committed in mentioning his date of birth and soon after noticing the mistake the petitioner approached the respondent and requested him to make necessary rectification with regard to his date of birth mentioned in his passport, since the same would adversely affect his further studies as well as the employment opportunities. However, the petitioner was orally informed by the respondent that unless suitable directions are obtained from a Court of law, he cannot make necessary rectification. In the said circumstances, the present Writ Petition is filed.

4. Sri V.Narasimha Reddy the learned counsel representing the Writ Petitioner had drawn the attention of this Court to an order passed in Writ Petition No. 8533 of 2004 and would submit that this being only a technical correction in the entry relating to date of birth, clause (a) of Circular, dated 18-4-2001 issued by Government of India,

Ministry of External Affairs is applicable and hence, in view of the same, the relief prayed for by the petitioner can be granted.

5. Per contra, the learned Senior Standing Counsel for Central Government would contend that the Writ Petition is of the year, 1997 and the Circular is dated 18-4-2001 and the Circular may be applicable only to the subsequent passports issued and not prior thereto. Hence, in fitness of things, a liberty may be given to the Writ Petitioner to file a fresh application praying for the issuance of the passport instead of placing reliance on the said circular which is subsequent to the issuance of the passport.

6. Heard both the counsel.

7. In ***Ali Imran Vs. Regional Passport Officer, Secunderabad,*** it was held:

> *"Amendment of entry with regard to date of birth mentioned in the passport – Entry made originally on the basis of school certificates – Amendment now sought on the basis of a certificate issued by the Registrar of Births and Deaths – Amendment cannot be allowed – It is open to the applicant to get the school Certificate first amended by an order of Civil Court and then approach the Passport Issuing Authority."*

8. The instructions/clarifications issued in the said Circular dated 18-4-2001 by the Government of India, Ministry of External Affairs which in fact had been issued in pursuance of the judgment of High Court of Judicature of Bombay in Civil Writ Petition No. 1072 of 2000 read as hereunder:

a. *"Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.*

b. *Where a competent Authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.*

c. *Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., Municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth."*

9. Placing reliance on the clarification issued on the aforesaid Circular, Writ Petition No. 8533 of 2004, was disposed of directing the respondents to consider the representation of the petitioner along with the Secondary School Certificate issued by Secretary, Board of Secondary Education, Andhra Pradesh and pass appropriate orders in the light of the observations made in the said judgment.

10. It is no doubt true that the present Writ Petition was filed in the year 1997 and the Government under Ministry of External Affairs issued the Circular referred to supra on 18-4-2001. As can be seen from the material available on record, the certificates, which had been produced before this Court, it is clear that it is only a bona fide mistake, which had crept in.

11. Apart from this aspect of the matter, no counter affidavit had been filed denying the specific averment made in the affidavit filed in support of Writ Petition that along with the application form for passport, the Travel Agent also enclosed copies of S.C.C. certificate, Intermediate certificate and also degree certificate. Therefore, it is evident that without verifying the date of birth, the respondent authority just took the date of birth as filled up in the application form and issued the passport. Hence, it is needless to say that it is only a bona fide mistake.

12. The learned Senior Standing Counsel for Central Government, no doubt submitted that in such a situation, if the passport was issued prior to the said circular it would be proper to give an opportunity to the Writ Petitioner to file fresh application for issuance of passport to the competent authority.

13. In the light of the facts and circumstances, especially in view of Clause (a) of the Circular, dated 18-4-2001 referred to supra and also in view of the fact that all these copies of documents also had been produced at the time of filing of the application

form but a bona fide mistake had crept in, the Writ Petition is disposed of with the following directions:

14. The petitioner shall file fresh application enclosing all the copies of certificates, which are being relied upon by him, before the respondent within a period of one month from today and the respondent is directed to take into consideration of the certificates and after verifying the same, pass appropriate orders in this regard within a period of one month thereafter. No order as to costs.

P.S.Narayana, J.

23rd December, 2004.

Note:

L.R.Copy to be marked.

B/o

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

One fair copy for the Hon'ble Sri Justice P.S.Narayana

(for his lordship kind perusal)

To

1. The Passport Officer,

Ministry of External Affairs,

Passport Office, Hyderabad.

2. 8 L.R. Copies

3. The Under Secretary, Union of India, Ministry of Law,

Justice and Company Affairs, New Delhi.

4. The Secretary, A.P. Advocate Association, Library, High Court

Buildings, Hyderabad.

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THE HON'BLE MR JUSTICE P.S.NARAYANA

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23rd December, 2004.